

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)	
)	
Plaintiff,)	Civil Action No. 3:09-CV-620 (REP)
)	
v.)	
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
)	
Defendant.)	

**MOTION AND MEMORANDUM FOR LEAVE TO FILE
SUPPLEMENTAL MATERIALS RELATING TO EXPERT TESTIMONY OF
RUSSELL MANGUM III, Ph.D.
(See Lawson Motion in Limine No. 3)**

Craig T. Merritt (VSB #20281)
Henry I. Willett, III (VSB #44655)
CHRISTIAN & BARTON, LLP
909 East Main Street, Suite 1200
Richmond, Virginia 23219-3095
Telephone: (804) 697-4100

Attorneys for Plaintiff, ePlus Inc.

Scott L. Robertson (admitted *pro hac vice*)
Jennifer A. Albert (admitted *pro hac vice*)
David M. Young (VSB#35997)
GOODWIN PROCTER LLP
901 New York Avenue, N.W.
Washington, DC 20001
Telephone: (202) 346-4000

Michael G. Strapp (admitted *pro hac vice*)
James D. Clements (admitted *pro hac vice*)
GOODWIN PROCTER LLP
Exchange Place
53 State Street
Boston, MA 02109-2881
Telephone: (617) 570-1000

Plaintiff ePlus, Inc. (“ePlus”), by counsel, states as follows:

1. During oral argument held on July 28, 2010, the Court, sua sponte, raised certain questions concerning the methodology employed in the expert report submitted by Russell W. Magnum III, Ph.D.

2. One issue raised was the interplay between the Court’s gatekeeping role concerning expert witnesses and the jury’s factfinding role in testing the strength of the expert’s analysis. The undersigned counsel believe that the Federal Circuit’s decision in *I4I Limited v. Microsoft Corporation*, 598 F.3d 831 (Fed. Cir. 2010) will aid the Court in its decisional process.

3. The Court also had questions concerning the means by which Dr. Mangum arrived at certain conclusions in his analysis. As the parties, who did not exchange rebuttal expert reports, agreed to utilize expert depositions as a means of supplementing their disclosures, the undersigned counsel believe that the deposition of Dr. Mangum may further elucidate his analysis, and may be of aid to the Court in its decisional process.

4. The undersigned have consulted with counsel for the defendant, who object to this motion and request an opportunity to respond no later than 2:00 p.m. on August 2, 2010. Defendant also requests leave to file a responsive submission should this motion be granted.

Wherefore, plaintiff respectfully moves that a copy of (1) the opinion in *I4I Limited v. Microsoft Corporation*, 598 F.3d 831 (Fed. Cir. 2010) and (2) a highlighted copy of the transcript of the deposition of Dr. Russell Mangum III be submitted to the Court to further inform its deliberations. A proposed Order is attached hereto.

July 30, 2010

Respectfully submitted,

ePlus, Inc.

By counsel

/s/

Henry I. Willett, III (VSB #44655)
Craig T. Merritt (VSB #20281)
Counsel for Plaintiff ePlus, Inc.
CHRISTIAN & BARTON, LLP
909 East Main Street, Suite 1200
Richmond, Virginia 23219-3095
Telephone: (804) 697-4100
Facsimile: (804) 697-4112
hwillett@cblaw.com
cmerritt@cblaw.com

Scott L. Robertson (*admitted pro hac vice*)
Jennifer A. Albert (*admitted pro hac vice*)
David M. Young (VSB #35997)
GOODWIN PROCTER LLP
901 New York Avenue, N.W.
Washington, DC 20001
Telephone: (202) 346-4000
Facsimile: (202) 346-4444
srobertson@goodwinprocter.com
jalbert@goodwinprocter.com
dyoung@goodwinprocter.com

Michael G. Strapp (*admitted pro hac vice*)
James D. Clements (*admitted pro hac vice*)
GOODWIN PROCTER LLP
Exchange Place
53 State Street
Boston, MA 02109-2881
Telephone: (617) 570-1000
Facsimile: (617) 523-1231
mstrapp@goodwinprocter.com
jclements@goodwinprocter.com

Attorneys for Plaintiff, ePlus Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of July, 2010, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

/s/ Henry I. Willett, III

Henry I. Willett, III (VSB #44655)
CHRISTIAN & BARTON, LLP
909 East Main Street, Suite 1200
Richmond, VA 23219-3095
Tel: (804) 697-4100
Fax: (804) 697-4112
Email: hwillett@cblaw.com

Counsel for Plaintiff ePlus, Inc.